



UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

WILLIAM LEONARD,

Plaintiff,

vs.

E. K. McDANIEL, *et al.*,

Defendants.

3: 09-cv-00644-LRH-RAM

ORDER

Plaintiff, who is a prisoner in the custody of the Nevada Department of Corrections, originally filed this civil rights complaint pursuant to 42 U.S.C. § 1983 in the Seventh Judicial District Court for the District of Nevada. Defendants removed the action to this court on November 2, 2009. (Docket #1.)

Plaintiff sues defendants E.K. McDaniel, Howard Skolnik, Robert Bannister, and Gregory Martin for violations of his constitutional rights. Specifically, plaintiff alleges that defendants have systematically failed to treat his serious medical needs, thereby causing significant and unnecessary and wanton infliction of pain. He claims that defendants have done this by discontinuing a “no kneel” order and forcing him to kneel and stand with debilitating injuries while in restraints. Plaintiff contends that defendants have thereby violated his rights under the Eighth and Fourteenth

1 Amendments to the United States Constitution. Plaintiff seeks declaratory and injunctive relief, as
2 well as monetary damages.

3 On August 27, 2010, this court entered a screening order in this case in which it dismissed
4 plaintiff's Fourteenth Amendment claims for failure to state a claim upon which relief can be granted
5 and denied plaintiff's motion for intervention in *Riker v. Gibbons*, 3:08-cv-00115-LRH-VPC. The
6 court also granted defendants' motion for bifurcation of plaintiff's claims for injunctive relief and the
7 claims for monetary damages and a stay of this action pending resolution of the *Riker* case. The
8 court entered judgment in *Riker* on October 28, 2010.

9 **IT IS THEREFORE ORDERED** as follows:

10 1. The Clerk **shall electronically serve a copy of this order, including the attached**
11 **Notice of Intent to Proceed with Mediation form, on the Office of the Attorney General of the**
12 **State of Nevada, to the attention of Pamela Sharp.**

13 2. The Attorney General's Office shall advise the Court within **twenty-one (21) days** of
14 the date of entry of this order whether it can accept service of process for the named defendants. As
15 to any of the named defendants for which the Attorney General's Office cannot accept service, the
16 Office shall file, *under seal*, the last known address(es) of those defendant(s).

17 3. If service cannot be accepted for any of the named defendant(s), plaintiff shall file a
18 motion identifying the unserved defendant(s), requesting issuance of a summons, and specifying a
19 full name and address for said defendant(s). Plaintiff is reminded that, pursuant to Rule 4(m) of the
20 Federal Rules of Civil Procedure, service must be accomplished within one hundred twenty (120)
21 days of the date the complaint was filed.

22 4. If the Attorney General accepts service of process for any named defendant(s), such
23 defendant(s) shall file and serve an answer or other response to the complaint within **thirty (30)**
24 **days** following the date of the early inmate mediation. If the court declines to mediate this case, an
25 answer or other response shall be due within **thirty (30) days** following the order declining
26 mediation.

1 5. The parties **SHALL DETACH, COMPLETE, AND FILE** the attached Notice of
2 Intent to Proceed with Mediation form on or before **thirty (30) days** from the date of entry of this
3 order.

4 **IT IS FURTHER ORDERED** that henceforth, Plaintiff shall serve upon defendants or, if an
5 appearance has been entered by counsel, upon their attorney(s), a copy of every pleading, motion or
6 other document submitted for consideration by the court. Plaintiff shall include with the original
7 paper submitted for filing a certificate stating the date that a true and correct copy of the document
8 was mailed to the defendants or counsel for defendants. If counsel has entered a notice of
9 appearance, the plaintiff shall direct service to the individual attorney named in the notice of
10 appearance, at the address stated therein. The Court may disregard any paper received by a district
11 judge or magistrate judge which has not been filed with the Clerk, and any paper received by a
12 district judge, magistrate judge or the Clerk which fails to include a certificate showing proper
13 service.

14 DATED: November 1, 2010.

15
16 
17 UNITED STATES MAGISTRATE JUDGE
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25
26

1 _____
 2 Name
 3 _____
 4 Prison Number (if applicable)
 5 _____
 6 Address
 7 _____
 8 _____

UNITED STATES DISTRICT COURT
 DISTRICT OF NEVADA

9 _____,)
 10 Plaintiff,)
 11 v.)
 12 _____)
 13 Defendants.)

Case No. _____

**NOTICE OF INTENT TO
 PROCEED WITH MEDIATION**

14 This case may be referred to the District of Nevada's early inmate mediation program. The
 15 purpose of this notice is to assess the suitability of this case for mediation. Mediation is a process by
 16 which the parties meet with an impartial court-appointed mediator in an effort to bring about an
 expedient resolution that is satisfactory to all parties.

- 17 1. Do you wish to proceed to early mediation in this case? ____ Yes ____ No
- 18 2. If no, please state the reason(s) you do not wish to proceed with mediation? _____
 19 _____
 20 _____
 21 _____
- 22 3. List any and all cases, including the case number, that plaintiff has filed in federal or state
 23 court in the last five years and the nature of each case. (Attach additional pages if needed).
 24 _____
 25 _____
 26 _____
4. List any and all cases, including the case number, that are currently pending or any pending

1 grievances concerning issues or claims raised in this case. (Attach additional pages if
2 needed).

3 _____
4 _____
5 _____

- 6 5. Are there any other comments you would like to express to the court about whether this case
7 is suitable for mediation. You may include a brief statement as to why you believe this case
8 is suitable for mediation. (Attach additional pages if needed).

9 _____
10 _____
11 _____

12 **This form shall be filed with the Clerk of the Court on or before twenty (20) days from**
13 **the date of entry of this order.**

14 Counsel for defendants: By signing this form you are certifying to the court that you have
15 consulted with a representative of the Nevada Department of Corrections concerning participation in
16 mediation.

17 Dated this ____ day of _____, 2010.

18 _____
19 Signature

20 _____
21 Name of person who prepared or
22 helped prepare this document a right secured by

23 the Constitution or laws
24
25
26